

Alcohol.....	6.61
Glycerin.....	.46
Saccharin.....	Very pronounced.

Adulteration of the product was alleged in the information for the reason that a substance, to wit, a compound cider prepared from apple juice, starch sugar, saccharin, and benzoate of soda, had been substituted wholly or in part for the article which purported to be apple cider, and for the further reason that the said substance just mentioned had been so mixed with and added to the article of food as to reduce, lower, and injuriously affect its quality. It was alleged in the information that the product was misbranded in that—

(1) The following statement borne on the label: "Apple Cider," was false and misleading because it conveyed the impression that the product was genuine apple cider, whereas, in fact, it was a compound cider, prepared from apple juice, starch sugar, saccharin, and benzoate of soda.

(2) In that said product was labeled and branded: "Apple Cider," thereby purporting that it was apple cider, whereas, in truth and in fact, it was a compound cider prepared from apple juice, starch sugar, and benzoate of soda.

(3) In that the label contained the following statement: "Fortified with sugar," which said statement was false and misleading, because it conveyed the impression that the product was fortified with cane sugar, whereas, in fact, it was fortified with starch sugar.

(4) In that it was labeled and branded so as to deceive the purchaser, being labeled and branded: "Fortified with sugar," thereby purporting that the product was fortified with cane sugar, whereas, in truth and in fact, it was fortified with starch sugar.

(5) In that the label contained the statement: "Conforms to the provisions of the Food and Drugs Act, as passed by Congress June 30, 1906," which was false and misleading because the product did not conform to the provisions of said Food and Drugs Act as passed by Congress June 30, 1906.

(6) In that said label on the article bore the statement: "Conforms to the provisions of the Food and Drugs Act as passed by Congress June 30, 1906," which was calculated to deceive and mislead the purchaser, whereas it did not conform to the provisions of the Food and Drugs Act as passed by Congress June 30, 1906.

(7) In that it was an alcoholic beverage, containing approximately 6.61 per cent alcohol, and the label did not state the presence of and quantity of alcohol.

On November 13, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$25, with costs of \$15.85.

When the case was reported for prosecution, no charge of misbranding was made on account of the presence of undeclared alcohol in the product.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 4, 1914.*

**2841. Adulteration and misbranding of oil of cassia. U. S. v. Lehn & Fink. Tried to a jury. Verdict of guilty. Fine, \$150. Second offense. (F. & D. No. 3880. I. S. No. 12240-d.)**

On August 6, 1912, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Lehn & Fink, a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on May 12, 1911, from the State of New York into the State of Texas, of a quantity of oil of cassia which was adulterated and misbranded. The product was labeled: "1 lb. O. L. Cinnamoni Oil Cassia U. S. P. Serial No. 2. Lehn & Fink, distillers and importers of essential oils New York."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Specific gravity at 25° C., 1.0592; assay for cinnamic aldehyde, 80 per cent; rotation in 100 mm tube, +2.27°; lead and copper absent; soluble in 2 volumes of 70 per cent alcohol; lead acetate test for resins, positive; copper acetate test for rosin, positive; rosin present; non-volatile residue, 13.3 per cent.

Adulteration of the product was alleged in the information for the reason that it was sold under and by a name recognized in the United States Pharmacopœia or National Formulary, to wit, oil of cassia, and differed from the standard of strength, quality, and purity as determined by the tests laid down in said Pharmacopœia official at the time of investigation with respect to the specific gravity and rotation of said article, and the absence therefrom of resins, and the standard of strength, quality, and purity of said article was not stated upon the container thereof or in the label thereof. Misbranding was alleged for the reason that the package and label on the article bore a statement, to wit, "Oil Cassia U. S. P.," regarding it and the ingredients and substances contained therein which was false and misleading, that is to say said statement conveyed the impression that the product was of the standard laid down in said Pharmacopœia for the article or drug which the product purported to be, to wit, oil of cassia, whereas it did not comply with the standard with respect to its specific gravity, rotation, and the absence of resins.

On November 6, 1912, the case having come on for trial before the court and a jury, after the submission of evidence and argument by counsel, the following charge was delivered to the jury by the court:

HOUGH, *Judge*. Gentlemen, we have listened for a couple of hours to some long, hard words; but, like every criminal case, we get down to a question of fact, not difficult to state, and (I think) not difficult to understand.

The Pure Food and Drug Act has been much talked of in the last half dozen years. The object, as you have been told, is to enable the consumer to know what it is in the way of food or drugs that he is putting in his stomach; and, to punish anybody who, whether by willful design or carelessness or inadvertence—it doesn't make a particle of difference which—puts forth for human consumption as food or drug that which is not what it pretends to be. The statute has other objects, but this is probably the leading purpose.

I do not quite agree with Mr. Newman, who told you that the point in this case is the difference between rosin and resin. There is a plain difference. We are told, if we needed to be told, that rosin is that well-known article of commerce that comes out of a species of pine tree, and is in a state of nature, mixed with what we call turpentine. It is used for a large number of well known and homely purposes, as for instance soldering tin cans or helping to solder them. Rosin is a resin; that is, it is a resinous substance. It may be that some members of the jury were brought up in the country and can remember what spruce gum was like. Well, that is also a resinous substance, and there are many other resinous substances in nature.

This oil of cassia or cinnamon is made out of a plant that does not grow in this country. It is mostly manufactured in China by the process of distillation, and I take it that every man here has some general idea how whiskey or other distilled spirits are made. In its simplest form the thing which is to be distilled is boiled and the steam of the boiling is condensed into a fluid which is in its ultimate form of the same kind, and yet chemically differs from that from which it originated.

It appears by the uncontradicted evidence that since the substance which results after distillation, oil of cassia, is very heavy, its heating has to be supplanted or aided by a direct blast of steam. Any one can see that that may result in the carrying over of particles into the distillation that by a milder process, so to speak, would not be so carried over.

Mr. Wyckoff says that there is in this plant, which produces, among other things, the oil of cinnamon or cassia, a resinous substance, and that in the process of distillation such resinous substances by the force of the heat and steam are in part carried over into the oil; but, they are a natural product of the plant and must be expected to be found in the finished product.

The chemists for the Government (as I understand them), deny that there is any such resinous property in the cassia cinnamon plant. I advise you that if there is any natural resinous substance in the cassia cinnamon plant, then there is nothing in

the law which makes it unlawful for that resinous substance to be found in the finished product that we call oil of cinnamon or cassia. But, says the Government, we got oil of cinnamon or cassia, that was sent by Lehn & Fink to Texas, we had that analyzed and the gentlemen who analyzed it, have been before you. They say they know rosin when they see it, and they found that this particular oil of cassia contained 5 or 6 per cent of *rosin*. Then it seems, by way of trying to straighten the matter out, that a portion of this sample of cinnamon oil was sent to Lehn & Fink, and Wyckoff analyzed it,—and he says that he did not find any rosin. He did find however all the other things that the other gentlemen found, and (except as to rosin) there is no substantial difference between their chemical investigations. But, when he applied the test that ought to have showed rosin if there was any rosin there, he got no precipitate,—found no solid residuum of rosin; but he did find about five and one-half per cent of a *resinous substance*, which in his opinion was the natural resin of the cassia cinnamon plant.

There is the whole story. Mr. Wyckoff says he found between five and six per cent of resinous substance and says that is natural to the article;—the Government inspectors found they say about the same percentage of rosin.

When we turn to the standard books in evidence before you, the Formulary says that it is common to adulterate oil of cassia with rosin and petroleum; and, when you turn to the Pharmacopœia various tests are given for the purpose of finding out whether there is rosin—not resinous substances, but rosin and petroleum in oil of cassia. Nobody says there is any petroleum in this specimen; but, the Government by its witnesses says there was rosin in it. The defendant by its witnesses says there wasn't any rosin in it at all, and that is the question.

Now, if you are thoroughly satisfied that there was rosin in this oil of cassia, then the defendant is guilty; if you are not satisfied, thoroughly satisfied that there was rosin in this oil of cassia, then it is not guilty.

By way of argument the defendant advances to you this proposition. It is worthy of consideration. The Pharmacopœia says that the active principle the cinnamon aldehyde that is in oil of cassia, need only amount to 75 per cent, and this specimen had more of the active principle in it than the Pharmacopœia required. That is admitted. Therefore the interrogatory is made, why should anybody adulterate something better than the standard?

Mr. Smith for the prosecution is entirely right in saying that there is not the slightest effort here to show that Lehn & Fink ever put anything in this oil. It is admitted they got this article from China and sold it to Texas as it came from China, so that whatever there was in the article when it got to Texas (so far as we know here), must have been put in in China. But when a man gets an article from the ends of the earth and then puts it forth with a label on it, which in effect says, "This corresponds to the law of the United States," it is his business to see that it does correspond, so it doesn't make any difference where it came from, or who put in the rosin if there was any. The question is as I put it to you now: Was there 5 or 6 per cent of rosin in this oil of cinnamon, or was there not? If there was, then you should find a verdict for the Government, if there was not, then you are to find a verdict for the defendant.

Thereupon the jury retired and after due deliberation returned into court with a verdict of "guilty," and the court imposed a fine of \$150, this being the second offense of the defendant corporation.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 9, 1914.*

**2842. Adulteration and misbranding of tea garden drips. U. S. v. Pacific Coast Syrup Co. Plea of guilty. Fine, \$10 and costs. (F. & D. No. 3882. I. S. No. 3552-d.)**

On April 4, 1913, the United States Attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district information against the Pacific Coast Syrup Co., a corporation, San Francisco, Cal., and doing business at Oxnard, Cal., alleging the shipment by said company, in violation of the Food and Drugs Act, on or about May 20, 1911, from the State of California into the then Territory, now State, of Arizona, of a quantity of tea garden drips which was adulterated and misbranded. The product was labeled: "Tea Garden Drips. Sugar Sugar-cane and Corn Syrup Pacific Coast Syrup Co., Seattle, San Francisco, Portland. Guaranteed by the Pacific Coast Syrup Co. under the Food and Drugs Act June 30, 1906 Serial No. 8297. Trade Mark Registered U. S. Patent Office."